



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/718,565

11/24/2003

Robert D. Piwko JR.

0621.0449C

1886

27896 7590 04/30/2007
EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

EXAMINER

ABRAHAM, TANIA

ART UNIT

PAPER NUMBER

3636

MAIL DATE

DELIVERY MODE

04/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/718,565

Applicant(s)

PIWKO ET AL.

Examiner

Tania Abraham

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-11,14,15,17-23,25 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-11,14,15,17-23,25 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Objections

1. Claim 21 is objected to because of the following: the limitation recited in lines 11-12 is a near duplication of the limitation recited in lines 4-5 of this claim, and is therefore redundant.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 15 is dependent upon canceled claim 13. Claim 15 has been treated as depending from claim 11.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Art Unit: 3636

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Chernivsky [US 3017220]. Chernivsky (fig. 1-3) discloses structure as claimed including:

- A backrest frame 12 that is U-shaped, where the bend of the “U” slants rearward with respect to the plane shared by a section 52 of its side members
- Legs 26 connected to the backrest frame that each bend away from the center of the child seat
- A support frame 10 that is generally U-shaped and connected to the legs, and
- A horizontal frame 40 that is attached to the backrest frame and serves to carry the bottom of the fabric seat 34.

Giving claim 1 its broadest reasonable interpretation, the limitation “approximately 30°” encompasses the angle formed between the planes of the side member section 52 and the upper portion of the backrest frame that slants rearward.

7. Claims 11, 15 and 17 rejected under 35 U.S.C. 102(e) as being anticipated by Shuler et al. Shuler et al shows a control device for an entertainment unit 2 configured to produce a sensory stimulus comprising a first switch 9 for selectively providing power from a power source to the control device, a second switch 8 for selecting a sensory stimulus mode, and an indicator 7 operable to visually indicate a particular sensory stimulus mode. The indicator comprises at least a first set of indicia 10 and a second set of indicia 12, wherein the second switch for selecting a sensory stimulus mode includes a first control position corresponding to a first visual appearance of the indicator in which only the first set of indicia is visible to an operator of the second switch, and a second control position corresponding to a second visual appearance of

the indicator in which only the second set of visual indicia is visible to the operator of the second switch. The first visual appearance of the indicator corresponds to a first sensory stimulus produced by the control device, and the second visual appearance of the indicator corresponds to a second, different sensory stimulus produced by the control device, wherein repositioning the switch for selecting a sensory stimulus mode between the first control position and the second control position both effectuates a change in the visual appearance of the indicator and produces a corresponding change in the sensory stimulus produced by the control device (pg. 3:[0037], fig. 3A & 3B). Regarding claim 15, moving the switch 8 for selecting a sensory stimulus mode from the first control position to the second control position rotates the indicator 7 from the first indicator position to the second indicator position. Regarding claim 17, the sensory stimulus produced by the control device is auditory.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Art Unit: 3636

10. Claims 3-5 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chernivsky ('220) in view of Fearon et al. Chernivsky discloses structure previously outlined except having an entertainment device attached to the child seat. Fearon et al (fig. 1-5) teaches attaching a musical mobile to a child supporting apparatus (col. 3 paragraph 5). Fearon et al's mobile discloses structure previously detailed including a power switch, a mode selection switch and mobile fixtures operable to indicate various modes. It would have been obvious at the time of invention to one skilled in the art to modify Chernivsky's seat with respect to the teaching of Fearon et al in order to improve a child's environment.

11. Claims 14 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shuler et al in view of Chernivsky ('220) and Canna et al. Shuler et al discloses structure previously described with the exception of attaching their entertainment unit to an infant seat. Canna et al shows an entertainment unit 300 attached to a child support device 100, and teaches that the entertainment unit can be attached to an infant seat, such as a bouncer seat (col. 1: 5-9). Chernivsky shows an infant seat comprising a frame that includes:

- a substantially U-shaped upper frame 12 having a medial portion and two substantially parallel side portions attached thereto, where the medial portion is angled rearward with respect to a plane 52 including the two side portions; and each side portion is also attached to a lower leg portion 26 that bows outwardly away from a center line bisecting the infant seat;

Art Unit: 3636

- a substantially U-shaped base portion 10 attached to the lower leg portions, where the base portion is formed by a horizontal portion 20 and two longitudinal portions 18 attached thereto; and the two longitudinal portions extend from the horizontal portion to the lower leg portions 26;
- a lower frame portion 40 attached to the side portions of the upper frame 12, with the lower frame having two side frames, each side frame being substantially horizontal with respect to the side portions of the upper frame; and
- soft goods material 34 disposed on the frame to form a seat pocket for receiving an infant therein.

Therefore, attaching the entertainment unit of Shuler et al to Chernivsky's infant seat, as taught by Canna et al, would have been an obvious combination to make to one skilled in the art at the time of invention in order to improve an infant's environment with an entertainment unit. Regarding claim 14, the specific type of switch used for selecting a sensory stimulus mode is considered a design choice that lacks patentable weight.

12. Claims 21-23, 25 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chernivsky ('220) in view of Lockett, III et al. Chernivsky shows structure as claimed, previously outlined in the rejection above, with the exception of his lower frame section being configured to receive and support the feet of an occupant. Lockett, III et al shows an infant seat 10 having a U-shaped upper frame 11, and a U-shaped lower frame 21 that receives and supports the legs and feet of an occupant. Lockett, III et al teach providing the lower frame 21 to improve the comfort to an occupant while seated in the device (col. 5: 63-66). So it would have been obvious to

modify Chernivsky's lower frame with the lower frame of Lockett, III et al, according to their teaching, in order to provide improved comfort to a seated occupant.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Previously cited references Adams and Chernivsky ('519) also show structure claimed.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Response to Arguments

15. Applicant's arguments with respect to claim 1, filed 01/19/2007, have been considered but they are not persuasive. Applicant argues that the medial portion of Chernivsky's seat does not "inherently [possess] an angle of approximately 30 degrees" (pg. 8) and the angle shown in Fig. 2 of Chernivsky is 45 degrees. The previous and present office actions state in the 102(b) rejection under Chernivsky that claim 1 is given its broadest reasonable interpretation, and by that, the angle shown by Chernivsky is interpreted as approximately 30 degrees.

16. Applicant's arguments with respect to claims 11-15 and 17 have been considered but are moot in view of the new ground(s) of rejection.

17. Applicant's arguments with respect to claim 21 have been considered but are moot in view of the new ground(s) of rejection. However, the Examiner disagrees with Applicant's argument that Chernivsky's horizontal frame 40 "can not function to receive the feet of an infant" in the seat (page 9). In general, the armrest of a seat can be, and very often is, used as a footrest by the occupant of that seat. So naturally, depending on the size/age of the occupant of Chernivsky's seat, the horizontal frame 40 can function to receive the occupant's feet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Abraham whose telephone number is 571-272-2635. The examiner can normally be reached on Monday - Friday, 8:00am - 4:30pm.

Art Unit: 3636

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TA



DAVID DUNN
SUPERVISORY PATENT EXAMINER